

**PLANNING COMMISSION RESOLUTION NO.**

A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION **APPROVING** A REQUEST OF AFFORDABLE HOUSING ADVISORY COMMITTEE AND THE MONROE COUNTY PLANNING DEPARTMENT TO AMEND AMENDING SECTIONS 9.5-120, 9.5-122, AND 9.5-266 ALLOWING FOR THE SAME TIER IIIA CLEARING STANDARDS THAT APPLY TO MARKET RATE RESIDENTIAL AND COMMERCIAL DEVELOPMENT TO ALSO APPLY TO AFFORDABLE RESIDENTIAL DEVELOPMENT; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISIONS; PROVIDING EFFECTIVE DATE; PROVIDING FOR INCORPORATION IN THE MONROE COUNTY CODE OF ORDINANCES.

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**WHEREAS**, the Monroe County Planning Commission has considered the comments of the public, recommendations of County Staff and the Workforce Housing Task Force; and

**WHEREAS**, the Monroe County Planning Commission makes the following Findings of Fact:

1. The Florida Legislature has found and declared:
  - (a) There exists in counties and municipalities of the state a severe shortage of housing affordable to residents of low or moderate income, including the elderly; that the existence of such condition affects the health, safety, and welfare of the residents of such counties and municipalities and slows their economic and social development; and that the elimination or improvement of such condition is a proper matter of state policy and state concern and is for a valid and desirable public purpose. *See* § 163.335(6), F.S.
  - (b) Within this state there is a shortage of housing available at prices or rentals which many persons and families can afford, and a shortage of capital for investment in such housing. This shortage constitutes a threat to the health, safety, morals, and welfare of the residents of the state, deprives the state of an adequate tax base, and causes the state to make excessive expenditures for crime prevention and control, public health, welfare, and safety, fire and accident protection, and other public services and facilities. *See* § 159.602(1), F.S.
  - (c) Escalating land and predevelopment costs and project financing contribute to the overall cost of housing and tend to restrict the development of housing affordable to very-low-income persons, low-income persons, and moderate-income persons. *See* § 420.420.0002(7), F.S.
  - (d) It is necessary to create inducements and opportunities for private and public investment in such activities in this state with appropriate planning, land use, and construction policies necessary for the public welfare. *See* § 420.502(5), F.S.
  - (e) Decent, safe, and sanitary housing for persons of very low income, low income, and moderate income are a critical need in the state. *See* § 420.6015(2), F.S.
  - (f) New and rehabilitated housing must be provided at a cost affordable to such persons in order to alleviate this critical need. *See* § 420.6015(2), F.S.

2. Tier III is appropriate for additional infill development because of the location and amount of existing development in the areas designated and the absence of significant upland native habitat patches;
3. Tier IIIA, referred to as “Special Protection Area” in the Comprehensive Plan, includes isolated upland native habitat patches of one acre or more in area that require increased protection from development;
4. Monroe County’s land development regulations permit clearing allowances up to 40% for Tier III parcels (including Tier III-A) and awards positive points to market rate ROGO and NROGO applications in Tier I (10 points), Tier II (20 points) and Tier III A (20 points);
5. Monroe County’s land development regulations permit the clearing of habitat on Tier IIIA parcels to accommodate the development of market rate housing and even commercial development, but prohibit such clearing for the development of affordable homes; and
6. Monroe County’s land development regulations serve to protect the clearing of habitat against affordable residential development but not other types of residential and commercial development; and
7. Monroe County’s current land development regulations related to the prohibition of affordable homes on Tier III-A parcels have an exclusionary impact, and also have the effect of limiting the housing options of lower-income individuals and families; and
8. The Florida Fair Housing Law, Section 760.20 of the Florida Statutes, prohibits discrimination in land use decisions and in permitting of development of affordable housing; and
9. The Florida Housing Coalition and the 1000 Friends of Florida have published an affordable housing manual, *Creating Inclusive Communities in Florida*, in which they state all affordable housing is protected by the Florida Fair Housing Law, and *“if the only reason the land use or permitting request is denied is because the housing is affordable, the decision will be in violation of Section 760.26, Florida Statutes;”* and
10. At its April 10, 2008 meeting in Key Colony Beach, the Monroe County Workforce Housing Taskforce supported a motion that the Board amend the land development regulations and the comprehensive plan to apply the same habitat clearing standards that are permitted for market rate residential and commercial development to affordable residential development; and
11. At its July 17, 2008 meeting in Key Colony Beach, the Monroe County Workforce Housing Taskforce reviewed the draft ordinance and supported a motion to forward the proposed ordinance to the Development Review Committee, Planning Commission and Board of County Commissioners for approval;

12. The Village Of Islamorada made similar changes to its land development regulations in 2007 which were adopted by the council and subsequently approved by the Department of Community Affairs; and

13. The proposed amendments to the Land Development Regulations are consistent with and further goals, objectives and policies of the Year 2010 Comprehensive Plan.

**WHEREAS**, the Development Review Committee on October 21, 2008 reviewed the legal authority and the proposed text, and recommended approval of the proposed text; and

**WHEREAS**, during a regular meeting held on November 18, 2008, the Monroe County Planning Commission conducted a public hearing on the proposed text.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of Monroe County, Florida, that the preceding findings of fact support its decision to recommend **APPROVAL** to the Board of County Commissioners of amendments to the text of the Monroe County Land Development Regulations, Sections 9.5-120, 9.5-122, and 9.5-266, Monroe County Code, as follows:

**Section 9.5-120.3. Type of Development not affected.**

- 9.5-120.3 (b)(2)(b) Transfer to affordable housing: An affordable housing unit may be developed if the receiver unit meets all of the following criteria:
  - (i) The proposed unit is an affordable house pursuant to sections 9.5-4 (A-5) and 9.5-266; and
  - (ii) Is located in the same ROGO sub-area as the sender site; and
  - (iii) Is located in a Tier III designated area or within a Tier III-A designated area ~~and does not propose the clearing of any portion of an upland native habitat patch of one (1) acre or greater in area~~ or is located in a Velocity (V) zone.

**Section 9.5-122. Residential ROGO allocations.**

- 9.5-122 (c) (4): No affordable housing allocation shall be awarded to applicants located within a Tier 1 designated area, within a V-zone on the county's flood insurance rating map or within a Tier II designated area on Big Pine Key and No Name Key, ~~or, within a Tier III-A (Special Protection Area) if clearing is proposed for any portion of an upland native habitat patch of one (1) acre or greater in area.~~

**Section 9.5-266. Affordable and Employee Housing; administration.**

- 9.5-266 (a) (6) (e): Parcel of land proposed for development of affordable or employee residential use shall only be located within Tier III or within Tier IIIA (Special Protection Area), ~~designated area that does not propose the clearing of any portion of an upland native habitat patch of one (1) acre or greater in area.~~

**PASSED AND ADOPTED** By the Planning Commission of Monroe County, Florida, at a regular meeting held on the 23<sup>rd</sup> day of July 2008.

Chair Wall

Vice-Chair Cameron

Commissioner Hale

Commissioner Marston

Commissioner Windle

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PLANNING COMMISSION OF MONROE COUNTY, FLORIDA

BY \_\_\_\_\_

Randolph D. Wall, Chair